

REMARKS

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 1-24 remain pending in connection with the present application, and claim 25 has been added by way of this Amendment. Claims 1 and 8 are independent claims.

PRIORITY DOCUMENT

On the Office Action Summary, the Examiner indicates that some but not all of the certified copies of the priority document have been submitted as required. Applicants respectfully request clarification.

This application is the National Stage of a PCT application. As such, no certified copy is required, unless necessary to overcome an intervening reference. MPEP 1893.03(c) even indicates that the certified copy requirement is fulfilled when the International Bureau forwards the priority document (which is a copy of a certified copy). In this case, the form PCT/DO/EO/903 (dated February 19, 2002) indicates that the United States Patent and Trademark Office received the priority document from the International Bureau, and that the application has been accepted for national patentability examination.

Accordingly, it is presumed that all priority documents have been fulfilled. Applicants respectfully request the Examiner to acknowledge, in the

next Action, that all of the certified copies of the foreign priority documents have been received.

BACKGROUND OF INVENTION

The present application, in a preferred embodiment, is directed to the propagation of changes in an application onto an automation system. Via the objects within the software, an identifying designation of a respective representative to the engineering system is supplied. A reference to an object is entered corresponding to the designated types of representatives via the engineering system. Based upon the reference entered, each representative's engineering information is read from the object, thus propagating changes to application software into an automation system.

PRIOR ART REJECTIONS

The Examiner has rejected claims 1-24 under 35 U.S.C. §103 as being unpatentable over Gloudeman et al. (U.S. Patent No. 6,119,125) in view of Fraley et al. (U.S. Patent No. 6,263,492). This rejection is respectfully traversed.

PRIOR ART FAILS TO TEACH OR SUGGEST LIMITATIONS OF CLAIMS 1 and 8

With respect to claims 1 and 8, the Examiner asserts that Gloudeman discloses "creating, via the engineering system, corresponding representatives for the designated types and, for each of the representatives," in column 1,

lines 40-58. However, Applicants assert that there is no such teaching found in all of Gloudeman.

Gloudeman is directed towards a computer implemented building automation system. Specifically, based on physical relationships defined in association with building automation functions, a set of control based standard objects are used in constructing an application. Further, Gloudeman discloses the propagation of changes in the engineering system to an application. By way of example, as shown in Fig. 5, a variable air volume (VAV) signal duct cooling application (100) is constructed from numerous standard software components. Assembly objects and application objects are combined and interconnected to construct a building automation application.

Thus, Applicants assert that there is no teaching or suggestion in Gloudeman for "creating, via the engineering system, corresponding representatives for the designated types and, for each of the representatives," Further, even assuming *arguendo* that Gloudeman could be combined with Fraley, which Applicants do not admit, Fraley would not make up for the deficiencies of Gloudeman.

Fraley is directed toward a componentizing object designer including the set of integrated protocols enabling component object model objects to replace standard built in visual forms and other objects. Specifically, Fraley discloses an application making reference to an object through an object pointer, obtaining the object reference by using some type of function call. Fraley, however, also has nothing to do with "creating, via the engineering system,

corresponding representatives for the designated types and, for each of the representatives, entering a reference to the object," as set forth in claim 1.

Thus, as either reference fails to teach or suggest such a limitation, their combination (even assuming *arguendo* that they could be combined) cannot. Accordingly, as no *prima facie* case of obviousness has been established, withdrawal of the rejection is requested.

The Examiner has acknowledged that Gloudeman fails to teach "entering a reference to the object," and has relied upon Fraley for teaching these limitations of claims 1 and 8. However, Gloudeman further lacks any teaching or suggestion of the creating step as claimed in claim 1 and Fraley fails to make up for this limitation. Thus, the alleged reference combination lacks at least such a feature and thus fails to render claims 1 and 8 obvious.

Specifically, the Examiner has only relied upon Fraley to make up for the deficiency of "entering a reference to the object." However, because all the patent documents fail to teach or suggest at least the creating step as recited in claims 1 and 8, Applicants assert that the Examiner has failed to establish a proper *prima facie* case of obviousness under 35 U.S.C. §103(a).

Further, Applicants assert that claims 2-7, 15-19, and 25, dependent upon claim 1, and claims 8-14, and 20-24, dependent upon claim 8, are allowable for at least the reasons as recited above with respect to claims 1 and 8.

Thus, withdrawal of the outstanding rejection is respectfully requested.

LACK OF MOTIVATION TO COMBINE REFERENCE TEACHINGS

Applicants further submit that the Examiner has not supplied evidence of the necessary motivation needed to lead one of ordinary skill in the art to combine the teachings of Gloudeman and Fraley. Accordingly, absent such motivation, a *prima facie* case of obviousness under 35 U.S.C. §103 has not been established and the rejection must be withdrawn.

The alleged motivation for combining Gloudeman with Fraley to reject claims 1-24, asserted by the Examiner is:

“This combination would have made a method for retrieval objects in an automation system containing the collection of objects defined the components of an application, which provided the connections between objects and a control logic sequence in order to solve a problem or meet a customer need.”

Such alleged motivation as cited by the Examiner on page 4 of the outstanding Office Action makes use of impermissible hindsight reconstruction. The Examiner has used the present application as a blueprint, selected a prior art method relating to building automation systems, and then searched other prior art for the missing elements, “entering a reference to the object,” without identifying or discussing any specific evidence of motivation to combine, other than providing conclusory statements. None of the prior art set forth by the Examiner teaches object oriented programming used in order to propagate changes made in an application into a building automation system.

Thus, the Examiner has provided no evidence of motivation. Namely, there is no portion, in either reference, of the presence of such motivation. As set forth in *In re Sang Lee*, 61 USPQ 2d 1430 (Fed. Cir. 2002), relying on

common knowledge or common sense of a person of ordinary skill in the art without any specific hint or suggestion of this in a particular reference, is not a proper standard for reaching the conclusion of obviousness. If the Examiner is relying on personal knowledge, the Examiner must provide an Affidavit or Declaration setting forth specific factual statements and explanation to support the finding. See 37 C.F.R. §1.104(d)(2) and M.P.E.P. 2144.03(c).

Further, Applicants assert that claims 2-7, 15-19, and 25, dependent upon claim 1, and claims 8-14, and 20-24, dependent upon claim 8, are allowable for at least the reasons as recited above with respect to claims 1 and 8.

Thus, withdrawal of the outstanding rejection is respectfully requested.

NEW CLAIMS

Applicants have added new claim 25 by the present Amendment, which are also believed to be patentable over the prior art. Although somewhat similar arguments to those emphasized above with regard to each of independent claims 1 and 8 may apply, Claims 25 and each of the claims should be governed solely by the limitations present therein and should not be limited in any way by limitations or arguments set forth in other independent claims. Accordingly, allowance of each of the new claim 25 is respectfully requested.

CONCLUSION

In view of above remarks, reconsideration of the outstanding rejection and allowance of the pending claims is respectfully requested.

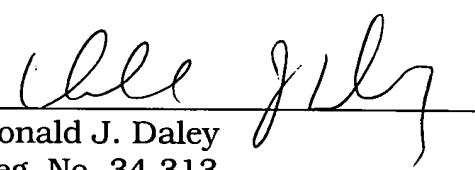
If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Andrew M. Waxman, Reg. No. 56,007, at the number of the undersigned listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Very truly yours,

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